

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ERVIN CHARLES ST. AMAND, ) NO. CV 00-5963-TJH(E)  
Plaintiff, )  
)  
v. ) MEMORANDUM AND ORDER  
SHERMAN BLOCK, et al., )  
Defendants. )  
)  
)

For the reasons discussed below, the Complaint is dismissed with leave to amend. See 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b)(1).

## **PROCEDURAL BACKGROUND**

On June 2, 2000, Plaintiff, proceeding pro se, lodged a civil rights complaint in this Court and submitted a declaration seeking leave to proceed in forma pauperis. On June 9, 2000, the District Judge denied leave, based on a recommendation by Magistrate Judge Margaret A. Nagle. Plaintiff appealed.

11

1 On February 20, 2002, the United States Court of Appeals for the  
 2 Ninth Circuit affirmed in part and reversed and remanded in part. See  
 3 St. Amand v. Block, 34 Fed App'x 283 (9th Cir. 2002). The Ninth  
 4 Circuit ruled that Plaintiff's Eighth Amendment claims alleging that  
 5 Defendants "ignored Plaintiff's requests for medical attention for a  
 6 week resulting in a perforated appendix, refused to follow his  
 7 doctor's directions to change his dressing post-surgery, and broke and  
 8 failed to replace his prosthetic leg, knee brace and surgical support  
 9 hose," did not appear frivolous. Id. at 284. The Ninth Circuit  
 10 further held that Plaintiff's claims under the Americans with  
 11 Disabilities Act and the Rehabilitation Act alleging that Defendants  
 12 treated Plaintiff differently because he was an amputee confined to a  
 13 wheelchair and denied him the benefits of the law library also did not  
 14 appear frivolous. Id. The Court affirmed the dismissal of  
 15 Plaintiff's remaining claims because they lacked "arguable substance  
 16 in law or fact." Id. The Court remanded for a determination whether  
 17 Plaintiff's "financial condition allowed him to proceed in forma  
 18 pauperis with these causes of action as to all defendants." Id. The  
 19 Ninth Circuit's docket reflects that the mandate issued on March 15,  
 20 2002.<sup>1</sup>

21  
 22 A stamp on this Court's copy of the Ninth Circuit's judgment  
 23 indicates that the judgment was received in this Court over six years  
 24 later, on May 7, 2008. The District Court docket also appears to  
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26       <sup>1</sup> The Court takes judicial notice of the Ninth Circuit's  
 27 docket in St. Amand v. Block, Ninth Circuit case number 00-56093,  
 28 available on the PACER database at [www.pacer.uspc.uscourts.gov](http://www.pacer.uspc.uscourts.gov).  
See Mir v. Little Company of Mary Hosp., 844 F.2d 646, 649 (9th  
 Cir. 1988) (court may take judicial notice of court records).

1 indicate that this Court received the Ninth Circuit's judgment for the  
2 first time on May 7, 2008.

3

4 The Court's file contains a document from Plaintiff, bearing a  
5 signature date of April 17, 2002, entitled "In re: 00-56093 (Remanded)  
6 'second,' Urgent Notice to the Court For: Urgent Request for Counsel,  
7 the First was Filed 'Mar 13th, 2002.'" The docket does not reflect  
8 that this document was ever filed. On June 28, 2002, Plaintiff filed  
9 an "Urgent Notice to the Court," notifying the Court of a change of  
10 address, requesting a settlement conference, requesting service of  
11 process by the United States Marshal, and requesting appointment of  
12 counsel. On August 6, 2002, Plaintiff filed a "Notice of Change of  
13 Address," notifying the Court of a change of address and again  
14 requesting a settlement conference and appointment of counsel. The  
15 file does not indicate that the Court ever ruled on Plaintiff's  
16 April 17, 2002, June 28, 2002 or August 6, 2002 requests.

17

18 The docket contains no entries between August 14, 2002, when the  
19 record on appeal was returned to this Court, and April 10, 2008. On  
20 April 10, 2008, the District Judge issued an order notifying Plaintiff  
21 that the case would be reopened and ordering Plaintiff to file a new  
22 application to proceed in forma pauperis. On April 15, 2008,  
23 Plaintiff filed another request to proceed in forma pauperis. On  
24 April 29, 2008, Plaintiff filed another request for appointment of  
25 counsel. On June 24, 2008, the District Judge denied Plaintiff's  
26 request for appointment of counsel.

27 ///

28 ///

1       On July 3, 2008, Plaintiff filed a First Amended Complaint. On  
2 July 9, 2008, the District Judge issued a "Notice of Reference to a  
3 United States Magistrate Judge," referring the matter to Magistrate  
4 Judge Nagle pursuant to General Order 05-07.<sup>2</sup> Also on July 9, 2008,  
5 the District Judge issued another "Notice of Reference to a United  
6 States Magistrate Judge," referring the matter to the undersigned  
7 Magistrate Judge pursuant to General Order 05-07. The Notice of  
8 Reference to the undersigned Magistrate Judge was not entered on the  
9 docket until July 30, 2008, however.

10  
11       In the meantime, apparently unaware that the case had been  
12 referred to a different Magistrate Judge, Judge Nagle issued an "Order  
13 re Civil Rights Case" on July 15, 2008. On July 17, 2008, the  
14 District Judge issued an order advising Plaintiff that the First  
15 Amended Complaint filed on July 3, 2008 would be construed as the  
16 original complaint ("Complaint"), and indicating that "service of  
17 process may proceed." On July 24, 2008, Judge Nagle issued an order  
18 vacating the "Order re Civil Rights Case" in light of the District  
19 Judge's July 17, 2008 order.

20  
21       On July 28, 2008, the District Judge granted Plaintiff's request  
22 to proceed in forma pauperis. On August 4, 2008, the undersigned  
23  
24  
25  
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27       <sup>2</sup> Although the Notice of Reference to Judge Nagle is not  
28 on the docket, it is contained in the Court's file.

1 Magistrate Judge received the file in chambers.<sup>3</sup>  
2

3 **SUMMARY OF PLAINTIFF'S ALLEGATIONS**  
4

5 Plaintiff's claims arise out of Plaintiff's alleged incarceration  
6 at the Los Angeles County Men's Central Jail between September of 1998  
7 and March of 1999. The Defendants are: (1) former Los Angeles County  
8 Sheriff Sherman Block; (2) Undersheriff Terry L. Harper; (3) Captain  
9 William G. Christiansen; (4) Lieutenant Rogers; (5) Men's Central Jail  
10 Chief Physician John C. Clark; (6) jail physician "Dr. Johnson";  
11 (7) Nursing Supervisor Barbara Marshall; (8) Second Watch Supervisor  
12 "Nurse Smith"; (9) "Nurse Woods"; (10) Sergeant Robert Klein;<sup>4</sup>  
13 (11) Deputy Delatorre; (12) Deputy Zimmer; (13) Sergeant Horwitz; and  
14 (14) Los Angeles County Sheriff Leroy Baca. Plaintiff sues all  
15 Defendants in their individual and official capacities.

16  
17 The Complaint is not a model of clarity. In "Claim I," Plaintiff  
18 alleges that he is a "B/K amputee"<sup>5</sup> who suffered from severe  
19 osteoarthritis during the relevant time period (Complaint, p. 5).  
20 Plaintiff alleges that Defendants Block, Harper and Christiansen  
21 assertedly classified and "stigmatized" Plaintiff as a sexually

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22       <sup>3</sup> The extreme delay and significant confusion in this  
23 case are regrettable, and appear to have arisen from errors of  
24 unknown origin occurring either in the District Court or in the  
Circuit Court or both.

25       <sup>4</sup> Plaintiff spells Defendant Klein's name "Kline" at  
26 several places in the Complaint. The Court employs the spelling  
first used.

27       <sup>5</sup> It appears that the term "B/K" may refer to a below-  
28 the-knee amputation.

1 violent predator, thereby allegedly permitting jail staff and medical  
 2 staff to subject Plaintiff to assertedly inhuman punishment in  
 3 violation of the Eighth Amendment, the Fourteenth Amendment, the  
 4 Americans with Disabilities Act, and the Rehabilitation Act (*id.*).  
 5 Plaintiff alleges that Defendants were deliberately indifferent to  
 6 Plaintiff's request for medical treatment for a week, until  
 7 Plaintiff's kidneys allegedly "shut down, due to appendicitis" (*id.*).  
 8 Plaintiff alleges that the court dismissed the sexually violent  
 9 predator case against Plaintiff on April 13, 1999 (*id.*).  
 10

11 In "Claim II," Plaintiff alleges that Defendants Clark, Marshall,  
 12 Johnson, Rogers, Horwitz, and unidentified nursing staff who worked  
 13 the module's sick call and pill call between September 25, 1998 and  
 14 October 1, 1998 were deliberately indifferent to Plaintiff's medical  
 15 needs in asserted violation of the Eighth Amendment, Due Process,  
 16 Equal Protection, and the Americans with Disabilities Act (Complaint,  
 17 p. "5/7").<sup>6</sup> Plaintiff alleges Defendants assertedly relied on the  
 18 "stigma" that Plaintiff was a sexually violent predator to deny  
 19 Plaintiff medical care for a full week, causing Plaintiff's kidneys to  
 20 shut down due to appendicitis (*id.*). Plaintiff assertedly was not  
 21 allowed to see a doctor until the evening of September 30, 1999, when  
 22 Defendant Dr. Johnson allegedly gave Plaintiff Motrin and medication  
 23 for nausea and sent Plaintiff back to Plaintiff's module (*id.*). On  
 24 October 1, 1999, after Plaintiff assertedly notified his attorneys and  
 25

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26         <sup>6</sup> The form Complaint contains a page 5 followed by  
 27 nonidentical pages also numbered page 5, but which bear  
 28 handwritten page numbers such as "5/7," "5/8," etc. The Court  
 employs Plaintiff's pagination.

1 the judge, Plaintiff allegedly eventually was sent to the clinic with  
2 a 102-degree temperature and later was transferred to LAC/USC Medical  
3 Center (id.).

4

5 In "Claim III," Plaintiff alleges that unidentified supervising  
6 sergeants and deputies incited other unidentified deputies to break  
7 Plaintiff's prosthesis and take Plaintiff's knee-brace and support  
8 hose, and incited nursing staff and others not to help Plaintiff after  
9 Plaintiff underwent an "appendectomy - laparotomy" (Complaint,  
10 p. "5/8"). Unidentified Defendants allegedly treated Plaintiff  
11 differently from similarly-situated inmates, assertedly in violation  
12 of Due Process, Equal Protection, the Eighth Amendment, the Americans  
13 with Disabilities Act and the Rehabilitation Act (id.). Apparently  
14 before the surgery, an unidentified supervising sergeant allegedly  
15 endeavored unsuccessfully to talk a doctor out of admitting Plaintiff  
16 to the hospital, and then allegedly angrily informed the doctor that  
17 Plaintiff could not be housed in the jail's ward (id.). After the  
18 surgery, Plaintiff allegedly was moved to various jail wards after  
19 unidentified deputies assertedly announced to each ward that Plaintiff  
20 was a sexually violent predator (Complaint, p. "5/9"). Unidentified  
21 deputies allegedly incited nurses not to help Plaintiff, until doctors  
22 assertedly ordered pain medication and ordered nurses to change  
23 Plaintiff's dressing and to treat Plaintiff like any other patient  
24 (id.). Plaintiff's property allegedly was returned to Plaintiff, and  
25 Plaintiff assertedly noticed that the prosthesis was damaged and the  
26 knee-brace had been cut (id.). An unidentified deputy allegedly  
27 kicked Plaintiff's appliances into a corner, and someone allegedly  
28 took Plaintiff's support hose (id.). Plaintiff allegedly notified the

1 judge (id.).  
2  
3 "Claim IV" incorporates Plaintiff's previous allegations.  
4 Plaintiff also alleges that unidentified Defendants discriminated  
5 against Plaintiff in handling Plaintiff's grievances and refused to  
6 obey court orders concerning Plaintiff's medical treatment (Complaint,  
7 p. "5/10"). Defendants Baca, Christiansen, Rogers, Clark, Marshall,  
8 Smith, Woods, Horwitz, Klein, Zimmer and Delatorre, "et al.,"  
9 allegedly subjected Plaintiff to inhuman punishment "as an SVP later  
10 dismissed by a Los Angeles Superior Court" (id.). Plaintiff alleges  
11 that, after his return to the jail following the surgery, Defendant  
12 Woods assertedly refused to change Plaintiff's dressing even after the  
13 Superior Court allegedly ordered the dressing changed, and allegedly  
14 refused to check Plaintiff's blood pressure (id.). Defendants Baca,  
15 Christiansen, Rogers, Clark, Marshall, Smith, Horwitz, Klein,  
16 Delatorre and Zimmer all allegedly refused to heed Plaintiff's  
17 grievances and to follow court orders (Complaint, pp. "5/10" -  
18 "5/13"). Unidentified floor deputies allegedly caused Plaintiff to  
19 miss shower days (Complaint, p. "5/12"). Deputies allegedly forced  
20 Plaintiff to walk down an escalator on crutches, took Plaintiff's  
21 crutches, and allegedly forced Plaintiff to hop on his arthritic knee  
22 (id.). Defendant Delatorre allegedly caused Plaintiff to miss lunch  
23 and pill call, and allegedly made Plaintiff stand against the wall  
24 from 1 p.m. until 3:45 p.m., when another deputy sent Plaintiff back  
25 to the module (Complaint, p. "5/13"). Plaintiff alleges that, on  
26 October 27, 1999, following Plaintiff's release from jail, Plaintiff  
27 underwent total knee replacement surgery for the left knee (id.).  
28 ///

1 Plaintiff seeks compensatory and punitive damages and injunctive  
2 relief in the form of an order preventing Defendants from threatening  
3 Plaintiff with punishment or reprisal (Complaint, p. 6).  
4

5 Plaintiff attaches a number of exhibits to the Complaint,  
6 including: (1) inmate complaint forms; (2) letters from Plaintiff to  
7 the state court judge concerning Plaintiff's alleged medical problems;  
8 (3) two December 3, 1998 letters to the state court judge from  
9 Defendant Harper indicating Plaintiff was "medically clear for court"  
10 (but acknowledging that a jail nurse had refused to change Plaintiff's  
11 dressing and that a strap on Plaintiff's prosthesis had broken);  
12 (4) various state court orders (including an order requiring jail  
13 medical personnel to change Plaintiff's dressing, an order requiring  
14 the Sheriff's Department to arrange for Plaintiff to be evaluated for  
15 new knee braces, an order requiring that Plaintiff not be deprived of  
16 his wheelchair until he was fully ambulatory, and an order requiring  
17 the Sheriff's Department to submit a report to the court regarding the  
18 reasons why Plaintiff's prosthesis was taken and returned broken, and  
19 what was being done to replace it); (5) medical records; and (6) a  
20 minute order dated April 13, 1999 indicating the state court granted a  
21 defense motion to dismiss the proceeding against Plaintiff on the  
22 ground that the People were unable to proceed.

23  
24 **DISCUSSION**  
25

26 **I. The Complaint Is Not Signed.**  
27

28 In violation of Rule 11(a) of the Federal Rules of Civil

1 Procedure, the Complaint is unsigned. A court "must strike an  
2 unsigned paper unless the omission is promptly corrected after being  
3 called to . . . the party's attention." Fed. R. Civ. P. 11(a).  
4 Plaintiff must sign any amended pleading.

5

6 **II. Plaintiff's Claim for Injunctive Relief Is Moot.**

7

8 It appears Plaintiff is no longer incarcerated at the jail.  
9 Hence, Plaintiff's claim for injunctive relief is moot. See Dilley v.  
10 Gunn, 64 F.3d 1365, 1368-69 (9th Cir. 1995).

11

12 **III. The Complaint Fails to Identify Clearly Which Defendant Is Sued**  
13 **on Each of Plaintiff's Claims.**

14

15 Under Rule 8(a) of the Federal Rules of Civil Procedure, a  
16 complaint must contain a "short and plain" statement of the claim for  
17 relief. "Each averment of a pleading shall be simple, concise, and  
18 direct." Fed. R. Civ. P. 8(e).

19

20 The Complaint does not clearly identify which Defendant is being  
21 sued on which claim, and for what alleged wrongdoing. Plaintiff  
22 alleges wrongdoing by unidentified deputies and medical staff, and  
23 uses the term "et al.," without identifying those persons or  
24 indicating whether they are Defendants. A complaint is subject to  
25 dismissal if one cannot determine from the complaint who is being  
26 sued, and for what relief. McHenry v. Renne, 84 F.3d 1172, 1178 (9th  
27 Cir. 1996).

28 ///

**IV. The Complaint Fails to Allege the Personal Involvement of Each Defendant.**

An individual defendant is not liable on a civil rights claim unless the facts establish the defendant's personal involvement in the constitutional deprivation or a causal connection between the defendant's wrongful conduct and the alleged constitutional deprivation. See Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989); Johnson v. Duffy, 588 F.2d 740, 743-44 (9th Cir. 1978). Plaintiff may not sue any supervisor on a theory that the supervisor is liable for the acts of his or her subordinates. See Polk County v. Dodson, 454 U.S. 312, 325 (1981). A supervisor may be held liable in his or her individual capacity "for [his or her] own culpable action or inaction in the training, supervision or control of [his or her] subordinates." Watkins v. City of Oakland, Cal., 145 F.3d 1087, 1093 (9th Cir. 1998) (quoting Larez v. City of Los Angeles, 946 F.2d 630, 646 (9th Cir. 1991)). To state a claim against any individual Defendant, Plaintiff must allege facts showing that the individual defendant participated in or directed the alleged violation, or knew of the violation and failed to act to prevent it. See Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998), cert. denied, 525 U.S. 1154 (1999) ("A plaintiff must allege facts, not simply conclusions, that show that an individual was personally involved in the deprivation of his civil rights."); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). Plaintiff's vague allegations that Defendants or unidentified deputies, medical staff or others violated Plaintiff's rights, or that supervisors are responsible for the acts of their subordinates, do not suffice under these standards. See Barren v. Harrington, 152 F.3d at

1 1194.<sup>7</sup>

2

3 **V. To Allege a Due Process Violation for Deliberate Indifference to**

4 **Plaintiff's Allegedly Serious Medical Needs, Plaintiff Must**

5 **Allege the Deliberate Indifference of Each Individual Defendant.**

6

7       Jail officials can violate the constitution if they are  
 8 "deliberately indifferent" to an inmate's serious medical needs. See  
 9 Farmer v. Brennan, 511 U.S. 825, 834 (1994) (Eighth Amendment);  
 10 Estelle v. Gamble, 429 U.S. 97, 104 (1976) (same). To be liable for  
 11 "deliberate indifference," a jail official must "both be aware of  
 12 facts from which the inference could be drawn that a substantial risk  
 13 of serious harm exists, and he must, also, draw the inference." Farmer  
 14 v. Brennan, 511 U.S. at 837. "[A]n official's failure to alleviate a  
 15 significant risk that he should have perceived but did not, while no  
 16 cause for commendation, cannot . . . be condemned as the infliction of  
 17 punishment." Id. at 838. Allegations of negligence do not suffice.  
 18 See Estelle v. Gamble, 429 U.S. at 105-06 ("Medical malpractice does  
 19 not become a constitutional violation merely because the victim is a  
 20 prisoner"); Lopez v. Smith, 203 F.3d 1122, 1131 (9th Cir. 2000) (en  
 21 banc). To the extent Plaintiff sues individual Defendants on a theory  
 22 of deliberate indifference, Plaintiff must allege each individual  
 23 Defendant's deliberate indifference to a specified serious medical  
 24 need of Plaintiff.

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25

26       <sup>7</sup> The Court notes that Plaintiff identifies some  
 27 Defendants only by their last names, such as "Nurse Smith" and  
 28 "Nurse Woods." Plaintiff is advised that, before the case can  
 proceed, Plaintiff will have to provide identifying information  
 sufficient to permit service of process upon the Defendants.

1      **VI. The Complaint Fails to Allege an Equal Protection Violation.**

2

3           To allege an Equal Protection violation, Plaintiff must allege  
 4 facts showing that he was intentionally treated differently from  
 5 others similarly situated and that there was no rational basis for the  
 6 difference in treatment. See Village of Willowbrook v. Olech, 528  
 7 U.S. 562, 564 (2000); Barren v. Harrington, 152 F.3d at 1194-95.  
 8 Plaintiff's conclusory allegations that Defendants treated Plaintiff  
 9 differently from other similarly-situated inmates do not suffice.  
 10 See Ventura Mobilehome Communities Owners Ass'n v. City of San  
 11 Buenaventura, 371 F.3d 1046, 1055 (9th Cir. 2004) (conclusory  
 12 allegations of Equal Protection violation, unaccompanied by  
 13 allegations identifying others similarly situated or alleging how they  
 14 are treated differently from plaintiff, insufficient to withstand  
 15 motion to dismiss); see generally Ivey v. Board of Regents of Univ.  
 16 of Alaska, 673 F.2d 266, 268 (9th Cir. 1982) (conclusory allegations  
 17 insufficient to state claim for relief).

18

19      **VII. Allegations of Random and Unauthorized Property Deprivations Do**  
 20            **Not State a Constitutional Claim for Relief.**

21

22           To the extent Plaintiff alleges a Defendant or Defendants took or  
 23 destroyed Plaintiff's property in violation of Due Process, the  
 24 Complaint alleges no cognizable constitutional claim for relief. A  
 25 random and unauthorized property deprivation does not constitute a  
 26 denial of Due Process if state law provides an adequate post-  
 27 deprivation remedy. Hudson v. Palmer, 468 U.S. 517, 533 (1984).  
 28 California law provides an adequate post-deprivation remedy for random

1 and unauthorized property deprivations. See Barnett v. Centoni, 31  
2 F.3d 813, 817 (9th Cir. 1994).

3

4 **VIII. Plaintiff May Not Sue Individual Defendants for Damages in Their**  
5 **Individual Capacities for Alleged Violations of the Americans**  
6 **with Disabilities Act or the Rehabilitation Act.**

7

8 Title II of the ADA provides that "no qualified individual with a  
9 disability shall, by reason of such disability, be excluded from  
10 participation in or be denied the benefits of the services, programs,  
11 or activities of a public entity, or be subjected to discrimination by  
12 any such entity." 42 U.S.C. § 12132. Section 504 of the  
13 Rehabilitation Act prohibits disability discrimination in a program or  
14 activity receiving federal financial assistance. See 29 U.S.C. §  
15 794(a). Neither Title II of the ADA nor section 504 of the  
16 Rehabilitation Act provides a damage remedy against individual public  
17 officials in their individual capacities. See Brewer v. Wisc. Bd. of  
18 Bar Examiners, 270 Fed. App'x 418, 421 (7th Cir. 2008);<sup>8</sup> Williams v.  
19 McLemore, 247 Fed. App'x 1, 8 (6th Cir. 2007); Garcia v. S.U.N.Y.  
20 Health Services Center, 280 F.3d 98, 107 (2d Cir. 2001); Alsbrook v.  
21 City of Maumelle, 184 F.3d 999, 1005 n. 8 (8th Cir. 1999) (en banc),  
22 cert. dismissed, 529 U.S. 1001 (2000); Green v. Adams, 2008 WL  
23 1766737, at \*5 (E.D. Cal. Apr. 16, 2008); Curry v. Tilton, 2007 WL  
24 2778363, at \*3 (N.D. Cal. Sept. 21, 2007); Thomas v. Nakatani, 128 F.  
25 Supp. 2d 684, 691-92 (D. Hawai'i 2000), aff'd on other grounds, 309

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27       <sup>8</sup> The Court may cite appellate opinions not officially  
28 published which were issued on or after January 1, 2007. See  
Fed. R. App. P. 32.1(a).

1 F.3d 1203 (9th Cir. 2002); see also Vinson v. Thomas, 288 F.3d 1145,  
2 1156 (9th Cir. 2002), cert. denied, 537 U.S. 1104 (2003) (plaintiff  
3 could not sue public official in his or her individual capacity under  
4 42 U.S.C. section 1983 for violations of either the ADA or the  
5 Rehabilitation Act). Therefore, Plaintiff may not sue the individual  
6 Defendants in their individual capacities for violations of Title II  
7 of the ADA or section 504 of the Rehabilitation Act.

8

9 **CONCLUSION**

10

11 For all of the foregoing reasons, the Complaint is dismissed with  
12 leave to amend. See Lopez v. Smith, 203 F.3d at 1130; 28 U.S.C. §  
13 1915(e)(2)(B), § 1915A(b). If Plaintiff still wishes to pursue this  
14 action, he is granted thirty (30) days from the date of this  
15 Memorandum and Order within which to file a Second Amended Complaint.  
16 The Second Amended Complaint shall be complete in itself. It shall  
17 not refer in any manner to any prior complaint. Plaintiff shall set  
18 forth his claims for relief separately and shall identify each  
19 Defendant sued on each claim for relief. See Fed. R. Civ. P. 10(a),  
20 (b). Plaintiff shall not add any new Defendants without leave of  
21 Court. See Fed. R. Civ. P. 21. Failure to file timely a Second  
22 Amended Complaint may result in the dismissal of this action.

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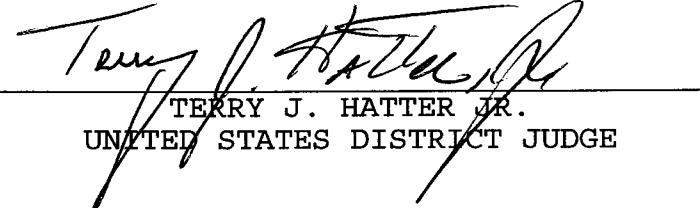
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1 Plaintiff's requests for a settlement conference are denied  
2 without prejudice. Plaintiff's request for an order directing service  
3 of process by the United States Marshal is denied without prejudice.

4  
5 DATED: 8/12, 2008.  
6

7   
8 TERRY J. HATTER JR.  
9 UNITED STATES DISTRICT JUDGE

10  
11  
12 Presented this 7th day of  
13 August, 2008 by:

14   
15 CHARLES F. EICK  
16 UNITED STATES MAGISTRATE JUDGE

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